

MINUTES

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

April 13, 2001 – Special Meeting

EFSEC Offices
925 Plum Street
Building 4, Room 308
Olympia, Washington 98504-3172

Item 1: Call to Order

Acting Chair, Jenene Fenton, called the meeting to order at 9:07 a.m. A quorum was present.

Item 2: Roll Call

Department of Agriculture	Daniel Jemelka
Community, Trade & Economic Development	Heather Ballash
Department of Fish & Wildlife	Jenene Fenton
Department of Health	Ellen Haars
Military Department	Maillian Uphaus
Department of Natural Resources	Tony Ifie
Department of Transportation	Gary Ray
Utilities and Transportation Commission	Dick Byers

Others in Attendance

EFSEC Staff and Counsel

Allen Fiksdal	Irina Makarow
Mike Mills	Mariah Laamb
Robert Fallis, AAG, EFSEC	

Guests

Brian Carpenter, REBOUND	Tony Usibelli, CTED
Liz Thomas, Preston, Gates & Ellis	Chuck Blumenfeld, Perkins Coie
Kevin Finan, Tractebel	Wayne White, Tractebel
John Arbuckle, Energy Northwest	Bill Kiel, Energy Northwest
Laura Schinnell, Energy Northwest-Satsop	Mike Sotak, Duke Energy
Fred Klauss, Energy Northwest	Teri Franklin, citizen
Jeff Kopf, EPA Region 10	Dan Meyer, EPA Region 10

Item 3: Chehalis Generation Facility

<i>PSD Air Emissions Permit Approval</i>	<i>Allen Fiksdal, EFSEC Manager and Irina Makarow, EFSEC staff reporting</i>
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Ms. Makarow reviewed the background on Chehalis Power's request to amend the Chehalis Generation Facility PSD permit. In January 2000, Chehalis Power Generation submitted a request for amendment to the Site Certification Agreement (SCA), including the amendment of the PSD permit. The Council reviewed the request for amendment of the PSD permit and issued a preliminary determination for public comment on May 18, 2000. The public had until June 19, 2000, to submit comments. A public hearing to be held on June 19, 2000, was noticed at the same time. The Council received a number of comments and staff prepared a Responsiveness Summary, the draft being submitted at today's meeting for Council consideration.

Four major were issues raised in the comments: First, many commentors did not agree with the determination the Council made regarding commencement of construction of the facility in December 1999. Second, commentors requested that the proponent should be required to perform a new Best Available Control Technology (BACT) analysis with an additional period for public comment. Third, it was requested that the proponent use Selective Catalytic Reduction (SCR) or SCONOX to additionally control Nitrogen Oxide (NOx) emissions from the project's combustion turbines. Fourth, the permit was issued without any specific data for startup or shutdown conditions, which Chehalis Power agreed to add to the permit during the SCA amendment adjudicative process with Ecology and Fish and Wildlife, and these permit conditions should be open for public comment.

After the public comment period, EPA requested that the comment period be extended, which EFSEC did through July 5, 2000, while EPA entered into lengthy discussions with Chehalis Power regarding the applicability of BACT and other issues. As a result of this exchange, on March 22, 2001, EPA issued an administrative order on consent. The major changes that Chehalis Power has agreed upon in this order include: installing Selective Catalytic Reduction (SCR) on the facility to control NOx down to 3 ppm – (when the combustion turbines are fired with natural gas); and, 14 ppm – (when the facility is fired with diesel oil). This is a substantial decrease from what the initial approved limits of 9.9 ppm NOx during natural gas firing, and 42 ppm during diesel oil firing. By adding SCR, ammonia will have to be used, so that will add ammonia emissions, which will be limited to 10 ppm, on a concentration basis, and approximately 226 tons per year.

On April 5, 2001, Barbara McAllister, EPA, wrote a letter to EFSEC Chair, Deborah Ross, transmitting a proposed revised permit, for the Council to consider in finalizing the PSD permit amendment. In this letter, Ms. McAllister states that the limits in this revised permit are consistent with recent determinations as to what constitutes BACT. EPA believes the new emission limits adequately protect human health, and the environment, and are consistent with PSD requirements. Agreement with Chehalis Power to implement these more stringent limits avoids possible litigation over whether a new BACT analysis is required, and will allow the project to move forward with construction. The permit, as revised, is acceptable to EPA.

The final permit presented to the Council for approval today, includes the addition of SCR, new ammonia limits, and startup and shutdown emission levels for NOx. Ms. Makarow continued with a review of specific permit provisions. Findings section on page two, items 8 & 10, require the use of Selective Catalytic Reduction for the facility and reduce the annual potential to emit for NOx, from 795 tons per year to 241 tons per year. As a result of NOx emission controls, the facility will have the potential to emit 226 tons per year of ammonia. On page four, Approval Condition Two, reflects that nitrogen oxides concentrations are being reduced to 3 ppm when burning natural gas, an equivalent of 491 lbs per day; and 14 ppm when burning diesel oil, an equivalent of 2,538 lbs per day. Based on the original numbers, this represents a significant reduction in nitrogen oxides emissions. Under Approval Condition Two, the Applicant agrees to a 241 ton per year cap for NOx emissions on the facility, which will be evaluated on a 12-month rolling basis. This 241 tons also includes any emissions during the startup and shutdown of the facility.

There are further requirements for using continuous emission monitoring systems for NOx. On Page 7, item 9, a new condition regarding emissions is added due to the use of the SCR at the facility. Ammonia concentrations will not exceed 10 ppm whether the facility is burning natural gas or oil and daily emissions of ammonia will not exceed 612 lbs per day when burning natural gas or 683 lbs per day when burning oil. Ammonia emissions will be monitored continuously with a continuous emission monitoring system.

Approval Condition Ten has been updated for startup and shutdown conditions. In the existing permit, all conditions apply, except for during unit startup and shutdown periods. The new unit startup and shutdown conditions essentially restrict what will happen during startup and shutdown events. In addition to limiting the duration of startup and shutdowns, the number of startup and shutdowns, and the CO emissions, the permit now requires that NOx emissions during those periods not exceed 292 lbs per hour when burning gas, or 407 lbs per hour when burning oil, averaged over the 3 hour startup shutdown condition.

Next, Ms. Makarow discussed how these changes respond to the major comments received during the public comment period. First, regarding BACT, the project was not considered BACT for Nitrogen Oxides at the time the preliminary permit approval was issued. The addition of SCR was already allowed in the previous permit and it was considered BACT. As it is being proposed, SCR is consistent with current BACT determinations for NOx in an attainment area in Washington State. There were no changes proposed for Carbon Monoxide, volatile organic compounds, sulfur dioxide or particulate matter emissions, which are the other criteria pollutants, for which BACT is required. Emission controls for this project remain consistent with current determinations for BACT in Washington State. EPA has concurred that this project is consistent with current BACT determinations.

Since the final permit requirements are now more restrictive than those when the preliminary approval was issued for public comment, staff believes that additional public comment is not required.

As described earlier regarding startup and shutdown conditions, Approval Condition Ten on page 7 has added conditions that were voluntarily agreed upon by the Applicant with Ecology

and Fish & Wildlife. They make the permit more restrictive as to allowable NOx emissions during those periods, therefore staff also believes public comment on this issue is not required, since the permit is now much more restrictive than prior to the amendment.

Regarding commencement of construction, EFSEC used EPA guidelines to make that determination. SCR is an additional commitment that the Applicant is making, and is being required in the permit, that further supports the Applicant is seriously considering with proceeding with this project.

Finally, regarding ammonia, Ms. Makarow asked the Council to refer to the three-page document titled, EFSEC 95-02 Extension One, Final Approval of the Notice of Construction Prevention of Significant Deterioration Approval, 18 month extension, effective December 18, 1998. On page 2, Condition 8, reads, "Turbines using advanced dry low NOx burner technology for NOx control are allowed by this permit. Use of standard dry low NOx burners with SCR as an alternative for NOx control is approved with a provision that the permit be amended to lower the turbine NOx emission limit and add an ammonia emission limit. A BACT determination for that amendment will determine that emission levels." This is what is being done today. The permit originally intended that should Chehalis Power decide to use SCR, ammonia would be a pollutant that would be added to the permit. Furthermore, at the time Chehalis Power submitted their original application in 1996, they studied the worse case scenario of all the emissions that would occur, including ammonia emissions at 10 ppm, and their analysis proved, concurred with by EFSEC and our contractor, Ecology, that the emission levels were all protective of environmental and human health and below regulatory standards. A large amount of analysis has shown that ammonia does not cause a problem and there was recognition that SCR and ammonia may be used at the facility. On that basis, staff believes no additional public comment is required to address the ammonia emissions that are being added to this permit. The ammonia emissions that are being added to this permit are consistent with current BACT determinations for other similar facilities in Washington State.

Ms. Makarow reviewed correspondence received prior to today's meeting. The Council received a letter from Linda Williams, who originally submitted testimony at the public hearing on June 19, 2000. Ms. Williams raises issues regarding public comment, ammonia emissions control, public comments on startup and shutdown emissions, and BACT. Staff believes that startup and shutdown provisions are more restrictive and do not need additional comment. Ammonia is a pollutant that was always considered as part of this permit, should SCR be required, and additional public comments are therefore not required. In addition, an e-mail letter was received today from John Mudge regarding this permit amendment. Mr. Mudge agrees with this permit amendment as it has been issued to the Council.

Ms. Williams also raises the issue that a number of individuals from the Chehalis area are petitioning judicial review of EFSEC's order granting Chehalis Power an SCA amendment. Under PSD regulations, if persons do not submit comments during the PSD review comment period, they cannot submit additional comment at this point in time.

Ms. Makarow presented staff's recommendation that the Council approve the final permit as amended. It achieves a higher level of pollution control and lower emission levels and is

consistent with recent BACT determinations and is definitely a benefit for the environment based on the original preliminary approval that was issued for public comment in May 2000.

EPA is ready to sign off on the permit as it is written today. Mr. Jeff Kopps, from EPA's office of regional counsel, stated on behalf of Barbara McAllister, that they apologize for the time it took EPA to resolve a number of substantive issues with Chehalis Power. However, he pointed out that during those months they were able to resolve the issues and are satisfied with the control technology that the company has agreed to and are now ready to move forward and sign off on the permit.

Ms. Teri Franklin, a resident from Gray Harbor County, asked if there are comparisons of the cumulative effect of all of projects in the Chehalis Valley? She cited a number of planned or existing plants in the area, and asked if the cumulative effects of all the pollutants are being determined?

Ms. Makarow responded that when the Chehalis facility was originally permitted, the Council looked at the cumulative impacts of existing facilities, which were evaluated at the time. For each new project that is proposed, Ecology and the local air authorities, who would be issuing the air permits, look at the cumulative impacts of the new facilities against what is already permitted, constructed, or in operation in the area.

Mr. Dick Byers, Council member, pointed out that in the letter dated April 5th, from EPA's Barbara McAllister, it was originally listed that the facility will have the potential to emit up to 315 tons of NOx per year. Ms. Makrow explained the number was revised downward based on further review by the Department of Ecology, to 241 tons per year.

There was a motion made by Ellen Haars and seconded by Dick Byers to approve the Chehalis Generation Facility PSD Permit, Amendment 1.

Motion: That the Council would approve the final permit as amended.

Action: The motion was approved unanimously.

Staff will proceed with preparing a clean copy of the final permit and issuing the Responsiveness Summary, and getting the original document signed by Ecology, EPA, and the EFSEC Chair.

Item 4: Satsop Combustion Turbine (CT) Project

<i>SCA Amendment Request</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal reported on a request from Energy Northwest and Duke Energy to amend the Satsop CT Project SCA to provide for changes in turbines, from Westinghouse to General Electric and delete the use of oil burning on site. The Council held a public meeting on April 2, 2001, 7 p.m., at the Elma High School to receive public comments on these issues. He presented to the Council Resolution No. 298 for consideration and action today. The resolution includes the

background and procedural status, staff's conclusion that the request is technical in nature and that the rules state a technical amendment does not require any adjudicative action.

The resolution includes a discussion of the consistency of the changes with the protection of public health, safety and welfare, and increase of the capacity of the facility from 490 megawatts to 650 megawatts, which enhances the supply of electrical energy in the region; and the elimination of diesel oil as a backup fuel, thus eliminating the potential health and safety issues relating to the transportation, storage and combustion of diesel fuel. Also, the amendment will not have an adverse affect on the environment. Significant emissions of NOx, ammonia, sulfur, carbon monoxides, volatile organic compounds, will be decreased, but the particulate emissions will remain the same.

Although total carbon dioxide emissions will increase by 10%, CO₂ emissions per megawatt generated will be reduced.

This amendment is consistent with applicable rules and regulations concerning the Council's jurisdiction over this project, and is consistent with the intention of the original SCA. This amendment, while providing for a change from Westinghouse to General Electric turbines, changes from a dual one-on-one configuration to a single two-on-one configuration and elimination of diesel oil, is consistent with the protection of public health, safety and welfare and applicable laws and the intent of the original SCA.

Staff recommends that the Council adopt Resolution No. 298 as presented today.

Ms. Fenton raised a question with the requirements of WAC 463-36-040 and 050, that state: "the Council has to consider whether a proposed amendment is consistent with public health, safety and welfare, including environmental aspects of the public welfare." Ms. Fenton was concerned that prior to the meeting today there was no indication that CO₂ emissions would increase, in fact, it was presented that all emissions would decrease. She believes that there may need to be an opportunity for the public to comment not only on these increased CO₂ emission levels, but on the entire proposed amendment presented to the Council today.

The amendment proposes that approximately 10% more natural gas be burned, and as a result of the increased output of the plant, more CO₂ will be generated. The turbines being proposed are much more efficient at combusting the natural gas, therefore per megawatt of electricity produced, CO₂ emissions will be lower.

Ms Fenton asked if the public has been given an adequate opportunity to respond to the fact that there will be increased CO₂ emissions from this plant with the proposed changes. If the public needs an opportunity to comment, the Council needs to hear from them before it decides if this request can be considered a technical amendment or not.

Council members also brought up that the 10% increases in CO₂ emissions from the Satsop CT project are similar to the 8% increases of CO₂ from the Chehalis CT project, in which the Council required mitigation. Staff responded that in the Chehalis project, the issues surrounding the CO₂ increases were heard in the SCA amendment adjudicative proceedings, and that the

mitigation of these emissions was not only as a result of an increase in production capacity, as is the case for the Satsop project.

Mr. Chuck Blumenfeld, counsel for the proponent, spoke to the issues of a delay of Council's decision, and CO₂ emissions. First, he stated if the Council did not make a decision today, it would delay their efforts by a few months, as Duke Energy's Management meets only every few months. Second, in connection with CO₂ emissions, in the current SCA there is a provision stating that the Satsop CT Project will prepare and submit a report to the Council no later than one year prior to the turbines coming on line. This report is to evaluate possible greenhouse gases and CO₂ mitigation techniques and will concentrate on the techniques that can offer cost effective mitigation measures. At the time of the submittal of this report, the Council could impose additional greenhouse gas mitigation, if deemed necessary. In regard to public opportunity to respond to CO₂ emission increases on this project, there will be opportunities for the public to comment at the PSD permit hearing on air emissions. Mr. Blumenfeld believes that a 10% increase in a non-regulated pollutant is not a significant increase in emissions.

EFSEC counsel stated that the Council has satisfied the legal requirements for public meetings on the issues of the Satsop SCA amendment request.

Council members pointed out there was information on CO₂ emissions provided to the Council in a document dated March 29, 2001, titled Inquiry, Discussion Satsop CT project, provided by EFSEC staff. The issue of CO₂ emissions are discussed in this report stating there will be a 9% increase in CO₂ emissions. There is also a statement regarding CO₂ emissions being reduced by 214.5 tons per year per megawatt. This is likely the statement the public heard, and some Council members may have believed that all the emissions were decreasing. This could have been mis-perceived.

The Council wants to make sure the public has the opportunity to comment on the increased CO₂ emissions. The Council also needs the opportunity to discuss whether this information affects the ability to consider the SCA amendment request as a technical amendment in nature or not, and if such a decision would be modified pending additional public comments on this issue.

It is unclear if additional delays would result to the proponent's construction plans if another public meeting on the issue of CO₂ emissions was required.

Ms. Teri Franklin of McCleary spoke to the issue of air emissions. She reported that Grays Harbor County has been ranked in the worst 20% of all counties in the U. S. in emissions of Carbon Monoxide (CO). The project will produce approximately 600 tons of CO, 115 tons of particulate matter, 54 tons of sulfur dioxide, 200 tons of oxides of nitrogen, 93 tons of volatile organic compounds, benzene and toluene, 22 tons of sulfuric acid mist and 220 tons of ammonia per year. She stated medical research indicates an increase risk of heart disease, asthma, and higher mortality. Public health and safety is important and she feels that the citizens of Grays Harbor need to have an opportunity to comment on the air pollutant emissions from the proposed plant at Satsop.

After further consideration of the issues presented, the Council concluded that the appropriate time for additional public comment would occur when the project proponent submits the required greenhouse gas and CO2 mitigation report as required by the SCA . At that time, the Council can consider public comments before it decides whether to approve greenhouse gas or CO2 mitigation.

Based upon the preceding information, Council member Ballash suggested the following changes to Resolution No. 298 presented today.

On page 2, subheading A, Consistency with Public Health, Safety and Welfare, third paragraph, starting with the third sentence, delete the word “while”, and amend the text to say that “the Council finds that CO2 emissions will increase by approximately 10%. However an increase in the CO2 emissions is not adverse to the environment given the decrease in emissions per megawatt, the Council’s authority to compel CO2 mitigation consistent with the plan it will approve pursuant to the SCA, and the elimination of the use and storage of diesel oil.”

Next, at the end of the resolution, a second proviso should be added, just after the colon to state: “Provided the adoption of the amendments is made with the expressed acknowledgement that the Council is authorized under the SCA to compel Duke to prepare, submit, and implement a Council approved Greenhouse Gas and CO2 mitigation plan. In the event that Duke fails to prepare, submit, and implement the Council approved mitigation plan, this resolution shall be null and void.”

Motion: To add to the resolution the amendments just proposed.

A friendly amendment to the motion was proposed by Dick Byers, that a new PSD permit will be required prior to operations of the plant.

Motion: To add to the motion proposed by Ms. Ballash, that a new PSD permit will be required prior to operations of the plant.

Action: The motion passed unanimously.

Motion: To approve Resolution No. 298 with the amendments just approved.

Action: The motion passed unanimously.

Item 5: Energy Northwest Columbia Generating Station & WNP-1/4

<i>Authorization of Lease to Northwest Regional Power LLC for Installation of Temporary Electric Generators</i>	<i>Mike Mills, EFSEC Staff reporting</i>
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Mr. Mills referred to a letter from Energy Northwest, dated April 5, 2001, requesting Council approval of a lease proposed with Northwest Regional Power; LLC, involving the staging of 20 self-contained diesel power electric generators at the WNP-1 site.

Questions were raised at the April 9, 2001, regular Council meeting involving emergency procedures for employees of Northwest Regional Power and other companies being in the exclusionary zone, a 1.2 mile radius around the Columbia Generating Station operating nuclear plant. Staff has worked with representatives from the Department of the Military, Health, Energy Northwest and EFSEC counsel during the week and there is agreement on an approach to deal with the issues of employee/worker safety in the exclusionary zone.

Mr. John Arbuckle, Energy Northwest, presented a proposal addressing the questions raised at Monday's meeting. The main addition made to the lease agreement is Energy Northwest will be required to train all personnel prior to occupancy on-site, and annually thereafter, regarding emergency notification methods and emergency evacuation. Northwest Regional Power and other lessees must also document compliance with these new procedures.

Fred Klauss, Energy Northwest, explained that any persons working on site participate in four drills a year. The additional annual updates will reinforce emergency procedures for all lessee personnel.

Staff recommends the Council approve Energy Northwest's lease with Northwest Regional Power, LLC, which would lease space near the WNP-1 transformer yard, for the temporary location of electric generators.

The Council reiterated that the lessee must fully comply with the environmental protection and hazardous substances provisions that are standard conditions of Energy Northwest leases for alternative reuse of the WNP-1/4 site. In addition, the Council is requiring that the lease with Northwest Regional Power (and future leases) contain conditions for complying with the Site Emergency Evacuation and Response Plan.

Motion: To approve the lease proposed between Energy Northwest and Northwest Regional Power, LLC, with the conditions cited above, (including that standard lease articles 32-34 not be changed).

Action: The motion passed unanimously.

Mr. Fiksdal requested the authorization to prepare a press release on the special meeting and after getting counsel's approval, distribute the press release. The acting chair authorized EFSEC staff to prepare and issue the release.

Item 6: Adjourn

The meeting was adjourned at 11:13 a.m.